

FILED

2011 JAN 28 AM 10:45

CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY  DEPUTY

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

JOSE RICARDO JUAREZ-MELARA,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

CASE NO. 08CV2085 BEN (RBB)

**ORDER DENYING § 2241
PETITION**

INTRODUCTION

Petitioner Jose Ricardo Juarez-Melara moves pursuant to 28 U.S.C. § 2241 challenging Bureau of Prisons policies which preclude him from participating in certain pre-release programs because he is not a United States citizen. Dkt. No. 1. Because his argument lacks merit, the Court **DENIES** the petition.

DISCUSSION

Petitioner claims that the Bureau of Prisons policy preventing him from participating in certain programs due to his alien status violates his right to Equal Protection. However, Bureau of Prisons policies preventing deportable aliens from participating in certain programs survive constitutional challenge. *Cf. McLean v. Crabtree*, 173 F.3d 1176, 1186 (9th Cir. 1999) (finding BOP exclusion of prisoners with detainers, including INS detainers, from community-based program based on petitioners' alien status did not violate Equal Protection).

The Petition is **DENIED**. The Clerk shall close the file

DATED: January 17, 2011

08cv2085